

REFERENCE TITLE: CORP; Arizona state hospital; employees

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# HB 2084

Introduced by  
Representatives Farley, Chabin

## AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 1 AND CHAPTER 185, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 2 AND CHAPTER 185, SECTION 2; AMENDING SECTIONS 38-885, 38-893 AND 38-902, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by  
3 Laws 2008, chapter 144, section 1 and chapter 185, section 1, is amended to  
4 read:

5 38-881. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Accidental disability" means a physical or mental condition that  
8 the local board finds totally and permanently prevents an employee from  
9 performing a reasonable range of duties within the employee's department, was  
10 incurred in the performance of the employee's duties and was the result of  
11 any of the following:

12 (a) Physical contact with inmates, prisoners, parolees or persons on  
13 probation.

14 (b) Responding to a confrontational situation with inmates, prisoners,  
15 parolees or persons on probation.

16 (c) A job related motor vehicle accident while on official business  
17 for the employee's employer. A job related motor vehicle accident does not  
18 include an accident that occurs on the way to or from work. Persons found  
19 guilty of violating a personnel rule, a rule established by the employee's  
20 employer or a state or federal law in connection with a job related motor  
21 vehicle accident do not meet the conditions for accidental disability.

22 2. "Accumulated member contributions" means the sum of all member  
23 contributions deducted from a member's salary and paid to the fund, plus  
24 member contributions transferred to the fund by another retirement plan  
25 covering public employees of this state, plus previously withdrawn  
26 accumulated member contributions that are repaid to the fund in accordance  
27 with this article, minus any benefits paid to or on behalf of a member.

28 3. "Alternate payee" means the spouse or former spouse of a  
29 participant as designated in a domestic relations order.

30 4. "Alternate payee's portion" means benefits that are payable to an  
31 alternate payee pursuant to a plan approved domestic relations order.

32 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
33 amount of salary that is paid a member by a participating employer during a  
34 period of thirty-six consecutive months of service in which the member  
35 received the highest salary within the last one hundred twenty months of  
36 service. Average monthly salary means the aggregate amount of salary that is  
37 paid a member divided by the member's months of service if the member has  
38 less than thirty-six months of service. In the computation under this  
39 paragraph, a period of nonpaid or partially paid industrial leave shall be  
40 considered based on the salary the employee would have received in the  
41 employee's job classification if the employee was not on industrial leave.

42 6. "Beneficiary" means an individual who is being paid or who has  
43 entitlement to the future payment of a pension on account of a reason other  
44 than the individual's membership in the retirement plan.

1           7. "Claimant" means a member, beneficiary or estate that files an  
2 application for benefits with the retirement plan.

3           8. "Credited service" means credited service transferred to the  
4 retirement plan from another retirement system or plan for public employees  
5 of this state, plus those compensated periods of service as a member of the  
6 retirement plan for which member contributions are on deposit in the fund.

7           9. "Cure period" means the ninety-day period in which a participant or  
8 alternate payee may submit an amended domestic relations order and request a  
9 determination, calculated from the time the plan issues a determination  
10 finding that a previously submitted domestic relations order did not qualify  
11 as a plan approved domestic relations order.

12          10. "Designated position" means:

13           (a) For a county:

14           (i) A county detention officer.

15           (ii) A nonuniformed employee of a sheriff's department whose primary  
16 duties require direct contact with inmates.

17           (b) For the state department of corrections and the department of  
18 juvenile corrections, only the following specifically designated positions:

19           (i) Food service.

20           (ii) Nursing personnel.

21           (iii) Corrections physician assistant.

22           (iv) Therapist.

23           (v) Corrections dental assistant.

24           (vi) Hygienist.

25           (vii) Corrections medical assistant.

26           (viii) Correctional service officer, including assistant deputy  
27 warden, deputy warden, warden and superintendent.

28           (ix) State correctional program officer.

29           (x) Parole or community supervision officers.

30           (xi) Investigators.

31           (xii) Teachers.

32           (xiii) Institutional maintenance workers.

33           (xiv) Youth corrections officer.

34           (xv) Youth program officer.

35           (xvi) Behavioral health treatment unit managers.

36           (xvii) The director and assistant directors of the department of  
37 juvenile corrections and the superintendent of the state educational system  
38 for committed youth.

39           (xviii) The director, deputy directors and assistant directors of the  
40 state department of corrections.

41           (xix) Other positions designated by the local board of the state  
42 department of corrections or the local board of the department of juvenile  
43 corrections pursuant to section 38-891.

44           (c) For a city or town, a city or town detention officer.

1 (d) For an employer of an eligible group as defined in section 38-842,  
2 full-time dispatchers.

3 (e) For the judiciary, probation, surveillance and juvenile detention  
4 officers and those positions designated by the local board of the judiciary  
5 pursuant to section 38-891.

6 (f) For the department of public safety, state detention officers.

7 (g) FOR THE DEPARTMENT OF HEALTH SERVICES, ONLY THE FOLLOWING  
8 SPECIFICALLY DESIGNATED POSITIONS AT ALL UNITS OF THE ARIZONA STATE HOSPITAL  
9 IF THE PERSON EMPLOYED HAS ROUTINE CONTACT WITH PATIENTS:

10 (i) MENTAL HEALTH PROGRAM SPECIALIST.

11 (ii) ARIZONA STATE HOSPITAL SECURITY OFFICER.

12 (iii) RESIDENTIAL PROGRAM SPECIALIST.

13 (iv) PSYCHIATRIC NURSE II.

14 (v) PSYCHIATRIC NURSING SHIFT SUPERVISOR.

15 (vi) INSTITUTIONAL LICENSED PRACTICAL NURSE II.

16 (vii) ADOLESCENT TREATMENT SPECIALIST.

17 (viii) COMMUNITY SURVEILLANCE OFFICER.

18 11. "Determination" means a written document that indicates to a  
19 participant and alternate payee whether a domestic relations order qualifies  
20 as a plan approved domestic relations order.

21 12. "Determination period" means the ninety-day period in which the  
22 plan must review a domestic relations order that is submitted by a  
23 participant or alternate payee to determine whether the domestic relations  
24 order qualifies as a plan approved domestic relations order, calculated from  
25 the time the plan mails a notice of receipt to the participant and alternate  
26 payee.

27 13. "Domestic relations order" means an order of a court of this state  
28 that is made pursuant to the domestic relations laws of this state and that  
29 creates or recognizes the existence of an alternate payee's right to, or  
30 assigns to an alternate payee the right to, receive a portion of the benefits  
31 payable to a participant.

32 14. "Employee" means a person determined by the local board to be  
33 employed by a participating employer in a designated position.

34 15. "Employer" means an agency or department of this state or a  
35 political subdivision of this state that has one or more employees in a  
36 designated position.

37 16. "Fund" means the corrections officer retirement plan fund.

38 17. "Fund manager" means the fund manager of the public safety  
39 personnel retirement system.

40 18. "Juvenile detention officer" means a juvenile detention officer  
41 responsible for the direct custodial supervision of juveniles who are  
42 detained in a county juvenile detention center.

43 19. "Local board" means the retirement board of the employer that  
44 consists of persons appointed or elected to administer the plan as it applies  
45 to the employer's members in the plan.

1       20. "Member" means any employee who meets all of the following  
2 qualifications:

3       (a) Who is a full-time paid person employed by a participating  
4 employer in a designated position.

5       (b) Who is receiving salary for personal services rendered to a  
6 participating employer or would be receiving salary except for an authorized  
7 leave of absence.

8       (c) Whose customary employment is at least forty hours each week and  
9 for more than six months in a calendar year.

10       21. "Normal retirement date" means the first day of the calendar month  
11 immediately following an employee's completion of twenty years of service or,  
12 in the case of a dispatcher **OR DESIGNATED ARIZONA STATE HOSPITAL EMPLOYEE**,  
13 twenty-five years of service, the employee's sixty-second birthday and  
14 completion of ten years of service or the month in which the sum of the  
15 employee's age and years of credited service equals eighty.

16       22. "Notice of receipt" means a written document that is issued by the  
17 plan to a participant and alternate payee and that states that the plan has  
18 received a domestic relations order and a request for a determination that  
19 the domestic relations order is a plan approved domestic relations order.

20       23. "Participant" means a member who is subject to a domestic relations  
21 order.

22       24. "Participant's portion" means benefits that are payable to a  
23 participant pursuant to a plan approved domestic relations order.

24       25. "Participating employer" means an employer that the fund manager  
25 has determined to have one or more employees in a designated position or a  
26 county, city, town or department of this state that has entered into a  
27 joinder agreement pursuant to section 38-902.

28       26. "Pension" means a series of monthly payments by the retirement  
29 plan.

30       27. "Personal representative" means the personal representative of a  
31 deceased alternate payee.

32       28. "Plan approved domestic relations order" means a domestic relations  
33 order that the plan approves as meeting all the requirements for a plan  
34 approved domestic relations order as otherwise prescribed in this article.

35       29. "Probation or surveillance officer" means an officer appointed  
36 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
37 personnel, office assistants or support staff.

38       30. "Retired member" means an individual who is being paid a pension on  
39 account of the individual's membership in the retirement plan.

40       31. "Retirement" means termination of employment after a member has  
41 fulfilled all requirements for a pension.

42       32. "Retirement plan" or "plan" means the corrections officer  
43 retirement plan established by this article.

1        33. "Salary" means the base salary, shift differential pay and holiday  
2 pay paid a member in a designated position for personal services rendered to  
3 a participating employer on a regular monthly, semimonthly or biweekly  
4 payroll basis. Salary includes amounts that are subject to deferred  
5 compensation or tax shelter agreements. Salary does not include payment for  
6 any remuneration or reimbursement other than as prescribed by this paragraph.  
7 For the purposes of this paragraph, "base salary" means the amount of  
8 compensation each member is regularly paid for personal services rendered to  
9 an employer before the addition of any extra monies, including overtime pay,  
10 shift differential pay, holiday pay, fringe benefit pay and similar extra  
11 payments.

12        34. "Segregated funds" means the amount of benefits that would  
13 currently be payable to an alternate payee pursuant to a domestic relations  
14 order under review by the plan, or a domestic relations order submitted to  
15 the plan that failed to qualify as a plan approved domestic relations order,  
16 if the domestic relations order were determined to be a plan approved  
17 domestic relations order.

18        35. "Service" means employment rendered to a participating employer as  
19 an employee in a designated position. Any absence that is authorized by an  
20 employer, including any periods during which the employee is on an employer  
21 sponsored long-term disability program, is considered as service if the  
22 employee returns or is deemed by the employer to have returned to a  
23 designated position within the period of the authorized absence.

24        36. "Total and permanent disability" means a physical or mental  
25 condition that is not an accidental disability, that the local board finds  
26 totally and permanently prevents a member from engaging in any gainful  
27 employment and that is the direct and proximate result of the member's  
28 performance of the member's duty as an employee of a participating employer.

29        Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws  
30 2008, chapter 144, section 2 and chapter 185, section 2, is amended to read:

31        38-881. Definitions

32        In this article, unless the context otherwise requires:

33        1. "Accidental disability" means a physical or mental condition that  
34 the local board finds totally and permanently prevents an employee from  
35 performing a reasonable range of duties within the employee's department, was  
36 incurred in the performance of the employee's duties and was the result of  
37 any of the following:

38        (a) Physical contact with inmates, prisoners, parolees or persons on  
39 probation.

40        (b) Responding to a confrontational situation with inmates, prisoners,  
41 parolees or persons on probation.

42        (c) A job related motor vehicle accident while on official business  
43 for the employee's employer. A job related motor vehicle accident does not  
44 include an accident that occurs on the way to or from work. Persons found  
45 guilty of violating a personnel rule, a rule established by the employee's

1 employer or a state or federal law in connection with a job related motor  
2 vehicle accident do not meet the conditions for accidental disability.

3 2. "Accumulated member contributions" means the sum of all member  
4 contributions deducted from a member's salary and paid to the fund, plus  
5 member contributions transferred to the fund by another retirement plan  
6 covering public employees of this state, plus previously withdrawn  
7 accumulated member contributions that are repaid to the fund in accordance  
8 with this article, minus any benefits paid to or on behalf of a member.

9 3. "Alternate payee" means the spouse or former spouse of a  
10 participant as designated in a domestic relations order.

11 4. "Alternate payee's portion" means benefits that are payable to an  
12 alternate payee pursuant to a plan approved domestic relations order.

13 5. "Average monthly salary" means one-thirty-sixth of the aggregate  
14 amount of salary that is paid a member by a participating employer during a  
15 period of thirty-six consecutive months of service in which the member  
16 received the highest salary within the last one hundred twenty months of  
17 service. Average monthly salary means the aggregate amount of salary that is  
18 paid a member divided by the member's months of service if the member has  
19 less than thirty-six months of service. In the computation under this  
20 paragraph, a period of nonpaid or partially paid industrial leave shall be  
21 considered based on the salary the employee would have received in the  
22 employee's job classification if the employee was not on industrial leave.

23 6. "Beneficiary" means an individual who is being paid or who has  
24 entitlement to the future payment of a pension on account of a reason other  
25 than the individual's membership in the retirement plan.

26 7. "Claimant" means a member, beneficiary or estate that files an  
27 application for benefits with the retirement plan.

28 8. "Credited service" means credited service transferred to the  
29 retirement plan from another retirement system or plan for public employees  
30 of this state, plus those compensated periods of service as a member of the  
31 retirement plan for which member contributions are on deposit in the fund.

32 9. "Cure period" means the ninety-day period in which a participant or  
33 alternate payee may submit an amended domestic relations order and request a  
34 determination, calculated from the time the plan issues a determination  
35 finding that a previously submitted domestic relations order did not qualify  
36 as a plan approved domestic relations order.

37 10. "Designated position" means:

38 (a) For a county:

39 (i) A county detention officer.

40 (ii) A nonuniformed employee of a sheriff's department whose primary  
41 duties require direct contact with inmates.

42 (b) For the state department of corrections and the department of  
43 juvenile corrections, only the following specifically designated positions:

44 (i) Food service.

45 (ii) Nursing personnel.

- 1 (iii) Corrections physician assistant.
- 2 (iv) Therapist.
- 3 (v) Corrections dental assistant.
- 4 (vi) Hygienist.
- 5 (vii) Corrections medical assistant.
- 6 (viii) Correctional service officer, including assistant deputy
- 7 warden, deputy warden, warden and superintendent.
- 8 (ix) State correctional program officer.
- 9 (x) Parole or community supervision officers.
- 10 (xi) Investigators.
- 11 (xii) Teachers.
- 12 (xiii) Institutional maintenance workers.
- 13 (xiv) Youth corrections officer.
- 14 (xv) Youth program officer.
- 15 (xvi) Behavioral health treatment unit managers.
- 16 (xvii) The director and assistant directors of the department of
- 17 juvenile corrections and the superintendent of the state educational system
- 18 for committed youth.
- 19 (xviii) The director, deputy directors and assistant directors of the
- 20 state department of corrections.
- 21 (xix) Other positions designated by the local board of the state
- 22 department of corrections or the local board of the department of juvenile
- 23 corrections pursuant to section 38-891.
- 24 (c) For a city or town, a city or town detention officer.
- 25 (d) For an employer of an eligible group as defined in section 38-842,
- 26 full-time dispatchers.
- 27 (e) For the judiciary, probation, surveillance and juvenile detention
- 28 officers and those positions designated by the local board of the judiciary
- 29 pursuant to section 38-891.
- 30 (f) For the department of public safety, state detention officers.
- 31 (g) FOR THE DEPARTMENT OF HEALTH SERVICES, ONLY THE FOLLOWING
- 32 SPECIFICALLY DESIGNATED POSITIONS AT ALL UNITS OF THE ARIZONA STATE HOSPITAL
- 33 IF THE PERSON EMPLOYED HAS ROUTINE CONTACT WITH PATIENTS:
- 34 (i) MENTAL HEALTH PROGRAM SPECIALIST.
- 35 (ii) ARIZONA STATE HOSPITAL SECURITY OFFICER.
- 36 (iii) RESIDENTIAL PROGRAM SPECIALIST.
- 37 (iv) PSYCHIATRIC NURSE II.
- 38 (v) PSYCHIATRIC NURSING SHIFT SUPERVISOR.
- 39 (vi) INSTITUTIONAL LICENSED PRACTICAL NURSE II.
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43 participant and alternate payee whether a domestic relations order qualifies  
44 as a plan approved domestic relations order.

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2 plan must review a domestic relations order that is submitted by a  
3 participant or alternate payee to determine whether the domestic relations  
4 order qualifies as a plan approved domestic relations order, calculated from  
5 the time the plan mails a notice of receipt to the participant and alternate  
6 payee.

7       13. "Domestic relations order" means an order of a court of this state  
8 that is made pursuant to the domestic relations laws of this state and that  
9 creates or recognizes the existence of an alternate payee's right to, or  
10 assigns to an alternate payee the right to, receive a portion of the benefits  
11 payable to a participant.

12       14. "Employee" means a person determined by the local board to be  
13 employed by a participating employer in a designated position.

14       15. "Employer" means an agency or department of this state or a  
15 political subdivision of this state that has one or more employees in a  
16 designated position.

17       16. "Fund" means the corrections officer retirement plan fund.

18       17. "Fund manager" means the fund manager of the public safety  
19 personnel retirement system.

20       18. "Juvenile detention officer" means a detention officer responsible  
21 for the direct custodial supervision of juveniles who are detained in a  
22 county juvenile detention center.

23       19. "Local board" means the retirement board of the employer that  
24 consists of persons appointed or elected to administer the plan as it applies  
25 to the employer's members in the plan.

26       20. "Member" means any employee who meets all of the following  
27 qualifications:

28       (a) Who is a full-time paid person employed by a participating  
29 employer in a designated position.

30       (b) Who is receiving salary for personal services rendered to a  
31 participating employer or would be receiving salary except for an authorized  
32 leave of absence.

33       (c) Whose customary employment is at least forty hours each week and  
34 for more than six months in a calendar year.

35       21. "Normal retirement date" means the first day of the calendar month  
36 immediately following an employee's completion of twenty years of service or,  
37 in the case of a dispatcher **OR DESIGNATED ARIZONA STATE HOSPITAL EMPLOYEE**,  
38 twenty-five years of service, the employee's sixty-second birthday and  
39 completion of ten years of service or the month in which the sum of the  
40 employee's age and years of credited service equals eighty.

41       22. "Notice of receipt" means a written document that is issued by the  
42 plan to a participant and alternate payee and that states that the plan has  
43 received a domestic relations order and a request for a determination that  
44 the domestic relations order is a plan approved domestic relations order.

1       23. "Participant" means a member who is subject to a domestic relations  
2 order.

3       24. "Participant's portion" means benefits that are payable to a  
4 participant pursuant to a plan approved domestic relations order.

5       25. "Participating employer" means an employer that the fund manager  
6 has determined to have one or more employees in a designated position or a  
7 county, city, town or department of this state that has entered into a  
8 joinder agreement pursuant to section 38-902.

9       26. "Pension" means a series of monthly payments by the retirement  
10 plan.

11       27. "Personal representative" means the personal representative of a  
12 deceased alternate payee.

13       28. "Plan approved domestic relations order" means a domestic relations  
14 order that the plan approves as meeting all the requirements for a plan  
15 approved domestic relations order as otherwise prescribed in this article.

16       29. "Probation or surveillance officer" means an officer appointed  
17 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
18 personnel, office assistants or support staff.

19       30. "Retired member" means an individual who is being paid a pension on  
20 account of the individual's membership in the retirement plan.

21       31. "Retirement" means termination of employment after a member has  
22 fulfilled all requirements for a pension.

23       32. "Retirement plan" or "plan" means the corrections officer  
24 retirement plan established by this article.

25       33. "Salary" means the base salary, overtime pay, shift differential  
26 pay and holiday pay paid a member in a designated position for personal  
27 services rendered to a participating employer on a regular monthly,  
28 semimonthly or biweekly payroll basis, except that for the purposes of this  
29 paragraph the amount of overtime included shall not include payments to the  
30 member for the sale of compensatory time. Salary includes amounts that are  
31 subject to deferred compensation or tax shelter agreements. Salary does not  
32 include payment for any remuneration or reimbursement other than as  
33 prescribed by this paragraph. For the purposes of this paragraph, "base  
34 salary" means the amount of compensation each member is regularly paid for  
35 personal services rendered to an employer before the addition of any extra  
36 monies, including overtime pay, shift differential pay, holiday pay, payments  
37 for the sale of compensatory time, fringe benefit pay and similar extra  
38 payments.

39       34. "Segregated funds" means the amount of benefits that would  
40 currently be payable to an alternate payee pursuant to a domestic relations  
41 order under review by the plan, or a domestic relations order submitted to  
42 the plan that failed to qualify as a plan approved domestic relations order,  
43 if the domestic relations order were determined to be a plan approved  
44 domestic relations order.

35. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

36. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 3. Section 38-885, Arizona Revised Statutes, is amended to read:

38-885. Normal retirement; conditions and pension

A. A member may retire if the member:

1. Files a written application for normal retirement with the plan in the form prescribed by the plan.
2. Ceases to be an employee before the date of retirement.
3. Meets one of the age and service requirements for normal retirement prescribed in subsection B.

B. A member is eligible for a normal retirement pension if the member satisfies one of the following requirements:

1. Is sixty-two years or older and has ten or more years of service.
2. Has twenty or more years of service or, in the case of a dispatcher OR DESIGNATED ARIZONA STATE HOSPITAL EMPLOYEE, twenty-five OR MORE years OF SERVICE.
3. The sum of the member's age and years of credited service equals at least eighty.

C. A member who meets the requirements for a normal retirement pension and who has twenty years or twenty-five years, as applicable, of credited service is entitled to receive a pension that equals fifty per cent of the member's average monthly salary, except that:

1. If the member retires with more than twenty years of credited service the foregoing amount shall be increased by a monthly amount equal to two per cent of the member's average monthly salary multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional years, except that if a member retires with twenty-five or more years of credited service the foregoing amount shall be increased by a monthly amount equal to two and one-half per cent of the member's average monthly salary multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year.

2. If the member retires pursuant to subsection B but has less than twenty years of credited service, the member is entitled to receive a pension equal to the product of:

- (a) Two and one-half per cent of the member's average monthly salary.

1 (b) The member's credited service.

2 D. In no case shall the amount of a member's pension exceed eighty per  
3 cent of the member's average monthly salary. Such limitation does not  
4 preclude cost-of-living increases granted by the legislature.

5 Sec. 4. Section 38-893, Arizona Revised Statutes, is amended to read:

6 38-893. Local boards; powers and duties; rules; hearings;  
7 administrative review

8 A. The administration of the plan and the responsibility for making  
9 the provisions of the plan effective for each employer are vested in a local  
10 board. The state department of corrections, the department of juvenile  
11 corrections, the department of public safety, THE DEPARTMENT OF HEALTH  
12 SERVICES, each participating county sheriff's department, each participating  
13 city or town, each participating employer of full-time dispatchers for  
14 eligible groups as defined in section 38-842 and the judiciary shall have a  
15 local board. Each local board is constituted as follows:

16 1. For the state departments, two members who are elected by secret  
17 ballot by members employed by that department in a designated position and  
18 two citizens who are appointed by the governor. The director of each state  
19 department shall appoint one member to the local board who is knowledgeable  
20 in personnel actions. Each state department local board shall elect a  
21 chairman.

22 2. For each participating county, the chairman of the board of  
23 supervisors, or the chairman's designee who is approved by the board of  
24 supervisors, as chairman, two members who are elected by secret ballot by  
25 members employed by the participating county in a designated position and two  
26 citizens, one of whom shall be the head of the merit system if it exists for  
27 the group of members, who are appointed by the chairman of the board of  
28 supervisors with the approval of the board of supervisors.

29 3. For political subdivisions, the mayor or chief elected official or  
30 a designee of the mayor or chief elected official approved by the respective  
31 governing body as chairman, two members elected by secret ballot by members  
32 employed by the appropriate employer and two citizens, one of whom shall be  
33 the head of the merit system if it exists for the group of members, appointed  
34 by the mayor or chief elected official and with the approval of the city  
35 council or governing body of the employer.

36 4. For the judiciary, two members who are elected by secret ballot by  
37 members who are employed as a probation, surveillance or juvenile detention  
38 officer, a designee of the chief justice of the Arizona supreme court and two  
39 citizens, one of whom shall be the head of a human resource department for  
40 the group of members, appointed by the chief justice.

41 B. The appointments and elections of local board members shall take  
42 place with one elective and one appointive board member, as designated by the  
43 appointing authority, serving a term ending two years after the date of  
44 appointment or election and the other local board members serving a term  
45 ending four years after the date of appointment or election. Thereafter,

1 every second year, and as a vacancy occurs, an office shall be filled for a  
2 term of four years in the same manner as provided in this section.

3 C. Within ten days after the member's appointment or election, each  
4 member of a local board shall take an oath of office that, so far as it  
5 devolves on the member, the member shall diligently and honestly administer  
6 the affairs of the local board and shall not knowingly violate or willingly  
7 permit to be violated any of the provisions of law applicable to the plan.

8 D. Except as limited by subsection E of this section, a local board  
9 shall:

10 1. Decide all questions of eligibility and service credits and  
11 determine the amount, manner and time of payment of any benefit under the  
12 plan.

13 2. Make a determination as to the right of a claimant to a benefit and  
14 afford a claimant or the fund manager, or both, a right to a rehearing on the  
15 original determination.

16 3. Request and receive from the employers and from members information  
17 as is necessary for the proper administration of the plan and action on  
18 claims for benefits and forward the information to the fund manager.

19 4. Distribute, in the manner the local board determines to be  
20 appropriate, information explaining the plan that is received from the fund  
21 manager.

22 5. Furnish the employer, the fund manager and the legislature, on  
23 request, with annual reports with respect to the administration of the plan  
24 that are reasonable and appropriate.

25 6. Appoint a medical board, which is composed of a designated  
26 physician or clinic other than the employer's regular employee or contractor.  
27 If required, the local board may employ other physicians to report on special  
28 cases. The examining physician or clinic shall report the results of  
29 examinations made to the local board, and the secretary of the local board  
30 shall preserve the report as a permanent record.

31 7. Sue and be sued to effectuate the duties and responsibilities set  
32 forth in this article.

33 E. A local board has no power to add to, subtract from, modify or  
34 waive any of the terms of the plan, change or add to any benefits provided by  
35 the plan or waive or fail to apply any requirement of eligibility for  
36 membership or benefits under the plan.

37 F. A local board, from time to time, shall establish and adopt rules  
38 as it deems necessary or desirable for its administration. All rules and  
39 decisions of a local board shall be uniformly and consistently applied to all  
40 members in similar circumstances.

41 G. An action by a majority vote of the members of a local board that  
42 is not inconsistent with the provisions of the plan is final, conclusive and  
43 binding on all persons affected by it, unless a timely application for a  
44 rehearing or appeal is filed as provided in this article.

1 H. A claimant or the fund manager may apply for a rehearing before the  
2 local board within the time period prescribed in this subsection. A claimant  
3 or the fund manager shall file an application for rehearing in writing with a  
4 member of the local board or its secretary within sixty days after:

5 1. The claimant receives notification of the local board's original  
6 action by certified mail, by attending the meeting at which the action is  
7 taken or by receiving benefits from the plan pursuant to the local board's  
8 original action, whichever occurs first.

9 2. The fund manager receives notification of the local board's  
10 original action by certified mail or by receipt of written directions from  
11 the local board pursuant to its original action, whichever occurs first.

12 I. A hearing before a local board on a matter remanded from the  
13 superior court is not subject to a rehearing before the local board.

14 J. Decisions of local boards are subject to judicial review pursuant  
15 to title 12, chapter 7, article 6.

16 K. When making a ruling, determination or calculation, the local board  
17 is entitled to rely on information furnished by the employer, the fund  
18 manager, independent legal counsel or the actuary for the plan.

19 L. Each member of a local board is entitled to one vote. A majority  
20 of the appointed and elected members is necessary for a decision by the  
21 members of a local board at any meeting of the local board.

22 M. The local board shall adopt bylaws as it deems necessary. The  
23 local board shall elect a secretary who may, but need not, be a member of the  
24 local board. The secretary of the local board shall keep a record and  
25 prepare minutes of all meetings, forward the minutes to the fund manager  
26 within forty-five days after each meeting and forward all necessary  
27 communications to the fund manager.

28 N. The employer shall pay the fees of the medical board and of the  
29 local board's legal counsel and all other expenses of the local board  
30 necessary for the administration of the plan at rates and in amounts as the  
31 local board approves.

32 O. The local board shall issue directions to the fund manager  
33 concerning all benefits that are to be paid from the employer's account  
34 pursuant to the provisions of the fund. The local board shall keep on file,  
35 in the manner it deems convenient and proper, all reports from the fund  
36 manager and the actuary.

37 P. The local board and the individual members of the local board are  
38 indemnified from the assets of the fund against any liability arising by  
39 reason of any act, or failure to act, made in good faith pursuant to the  
40 provisions of the plan.

41 Sec. 5. Section 38-902, Arizona Revised Statutes, is amended to read:

42 38-902. Joinder agreement

43 A. County detention officers and nonuniformed employees of a sheriff's  
44 department whose primary duties require direct contact with inmates may  
45 participate in this plan if the board of supervisors of the county enters

1 into a joinder agreement with the fund manager to bring such employees into  
2 this plan. The joinder agreement shall be in accordance with the provisions  
3 of this plan. All such employees shall be designated for membership in the  
4 joinder agreement unless written consent to the contrary is obtained from the  
5 fund manager.

6 B. City or town detention officers may participate in this plan if the  
7 governing body of the city or town enters into a joinder agreement with the  
8 fund manager to bring its detention officers into this plan. The joinder  
9 agreement shall be in accordance with the provisions of the plan. The  
10 governing body of the city or town shall designate all detention officers for  
11 membership in the plan unless written consent to the contrary is obtained  
12 from the fund manager.

13 C. Full-time dispatchers may participate in this plan if the governing  
14 body or agency of the employer of an eligible group as defined in section  
15 38-842 enters into a joinder agreement with the fund manager to bring its  
16 full-time dispatchers into this plan. The joinder agreement shall be in  
17 accordance with the provisions of this plan and for those dispatchers  
18 designated for membership in the plan on the joinder date all credited  
19 service from any other Arizona defined benefit state retirement system or  
20 plan that represents credited service in a designated position shall be  
21 transferred to the corrections officer retirement plan. The governing body  
22 or agency of the employer shall designate all full-time dispatchers for  
23 membership in the plan except for a full-time dispatcher who signs an  
24 irrevocable agreement before the joinder agreement becomes effective electing  
25 not to become a member of the plan. A full-time dispatcher employed by an  
26 employer who becomes eligible for membership in the plan pursuant to this  
27 section may elect to participate in the plan within the deadlines and  
28 pursuant to the terms prescribed for such participation by the fund manager.

29 D. Probation, surveillance and juvenile detention officers may  
30 participate in this plan if the administrative office of the courts enters  
31 into a joinder agreement with the fund manager to bring its probation,  
32 surveillance and juvenile detention officers into this plan. The joinder  
33 agreement shall be in accordance with the provisions of this plan. The  
34 administrative office of the courts shall designate all probation,  
35 surveillance and juvenile detention officers for membership in this plan  
36 unless written consent to the contrary is obtained from the fund manager.

37 E. THE DEPARTMENT OF HEALTH SERVICES PERSONNEL WHO ARE EMPLOYED IN A  
38 DESIGNATED POSITION MAY PARTICIPATE IN THIS PLAN IF THE DIRECTOR OF THE  
39 DEPARTMENT OF HEALTH SERVICES ENTERS INTO A JOINDER AGREEMENT WITH THE FUND  
40 MANAGER TO BRING ITS EMPLOYEES INTO THIS PLAN. THE JOINDER AGREEMENT SHALL  
41 BE IN ACCORDANCE WITH THE PROVISIONS OF THIS PLAN. THE DIRECTOR OF THE  
42 DEPARTMENT OF HEALTH SERVICES SHALL DESIGNATE ALL EMPLOYEES FOR MEMBERSHIP IN  
43 THIS PLAN UNLESS WRITTEN CONSENT TO THE CONTRARY IS OBTAINED FROM THE FUND  
44 MANAGER.

1       ~~E.~~ F. Detention officers who are employed by the department of public  
2 safety may participate in this plan if the director of the department of  
3 public safety enters into a joinder agreement with the fund manager to bring  
4 the department's detention officers into this plan. The joinder agreement  
5 shall be in accordance with the provisions of this plan. The director of the  
6 department of public safety shall designate all detention officers for  
7 membership in this plan unless written consent to the contrary is obtained  
8 from the fund manager.

9       ~~F.~~ G. The new employer shall designate the groups of employees who  
10 are eligible to participate in the plan and shall agree to make contributions  
11 each year that are sufficient to meet both the normal cost of a level cost  
12 method attributable to inclusion of its employees and the prescribed interest  
13 on the past service cost for its employees.

14       ~~G.~~ H. Before the execution of any joinder agreement each employer  
15 contemplating participation in the plan shall have an actuarial valuation  
16 made, which is payable by the employer, to determine the estimated cost of  
17 participation in accordance with section 38-894.

18       ~~H.~~ I. Assets under any existing public employee defined benefit  
19 retirement program, except a military retirement program, that are necessary  
20 to equal the actuarial present value of projected benefits to the extent  
21 funded on a market value basis as of the most recent actuarial valuation  
22 attributable to the employer's designated employee group, calculated using  
23 the actuarial methods and assumptions adopted by the existing public employee  
24 retirement program, shall be transferred from the program to this fund no  
25 later than ninety days after the employer's effective date. That portion of  
26 the transferred assets that is attributable to employee contributions,  
27 including interest credits, shall be properly allocated to each affected  
28 employee of the employer and credited to the employee's initial accumulated  
29 contributions in accordance with a schedule furnished by the employer to the  
30 fund manager.

31       J. IF AN EMPLOYEE HAS ELECTED TO PURCHASE CREDITED SERVICE THROUGH A  
32 PAYROLL DEDUCTION AGREEMENT IN ANY DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN  
33 OF THIS STATE AND AT THE TIME OF THE JOINDER AGREEMENT TRANSFERS TO THE  
34 CORRECTIONS OFFICER RETIREMENT PLAN, THE OTHER DEFINED BENEFIT RETIREMENT  
35 SYSTEM OR PLAN SHALL TRANSFER TO THE CORRECTIONS OFFICER RETIREMENT PLAN,  
36 BOTH ON AN ANNUAL BASIS AND ON NOTIFICATION OF TERMINATION OF THE MEMBER'S  
37 EMPLOYMENT, THE TOTAL OF ANY INTEREST AND PRINCIPAL PAID BY THE TRANSFERRED  
38 MEMBER FOR THE PURCHASE OF CREDITED SERVICE SINCE THE DATE OF THE MOST RECENT  
39 TRANSFER. IF CREDITED SERVICE THAT IS TRANSFERRED FROM THE EMPLOYEE'S  
40 PREVIOUS DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE DOES NOT  
41 FULLY COVER THE COST OF THE BENEFITS ACCRUED RELATIVE TO THE CREDITED SERVICE  
42 AS COMPUTED PURSUANT TO SECTION 38-922, THE EMPLOYER IS LIABLE FOR ANY  
43 UNFUNDED LIABILITIES.

1           Sec. 6. Joinder agreement: transfer of credited service to  
2                     corrections officer retirement plan: election to  
3                     remain in existing retirement system

4           Notwithstanding any other law, if the director of the department of  
5 health services enters into a joinder agreement with the fund manager to  
6 bring its eligible employees into the corrections officer retirement plan,  
7 all credited service from any other Arizona defined benefit state retirement  
8 system or plan shall be transferred to the corrections officer retirement  
9 plan unless the employee makes an irrevocable election to remain in the  
10 employee's existing state retirement system or plan.

11          Sec. 7. Conditional enactment

12          Section 38-881, Arizona Revised Statutes, as amended by Laws 2008,  
13 chapter 144, section 2 and chapter 185, section 2 and this act, becomes  
14 effective on the date prescribed in Laws 2005, chapter 324, section 2 but  
15 only on the occurrence of the condition prescribed by Laws 2005, chapter 324,  
16 section 2.